

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

TORIANORE T. GIVENS,

Plaintiff,

Case No. 3:21-cv-00165-YY

ORDER

v.

MULTNOMAH SHERRIF DEPARTMENT,
et al.,

Defendants.

SIMON, Judge.

Plaintiff, an adult in custody at the Multnomah County Inverness Jail, brings this civil rights action pursuant to 42 U.S.C. § 1983. Currently before the Court is Plaintiff's "Motion to Dismiss and Motion to Remand to State Court." (ECF No. 28).

In his Motion, Plaintiff states that he did not intend to file his Complaint in this Court, that it was a mistake, and that he intended to file it in state court. As such, Plaintiff seeks an order dismissing this matter without prejudice and remanding the case the state court.

To the extent Plaintiff seeks an order remanding this case to state court, his request must be denied. A district court has discretion "to remand to state court *a removed case* involving pendent

claims upon a proper determination that retaining jurisdiction over the case would be inappropriate." *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 357 (1988) (emphasis added). There is, however, no mechanism for transferring or remanding to state court a case filed in a United States District Court over which the court has original jurisdiction. *See Moore v. Hense*, Case No. 1:07-CV-01816 LJO SMS (HC), 2008 WL 2561598 at *1 (E.D. Cal. June 26, 2008) (no authority for district court to transfer action to state court). Accordingly, because this case was filed originally in this court and was not removed from state court, to the extent Plaintiff seeks a transfer or remand of this case to the Multnomah County Circuit Court, Plaintiff's request is denied.

Plaintiff's request to voluntarily dismiss the case without prejudice to his right to pursue his claims in state court, however, is GRANTED.

CONCLUSION

For these reasons, IT IS ORDERED that Plaintiff's "Motion to Dismiss and Motion to Remand to State Court" (ECF No. 28) is GRANTED IN PART and DENIED IN PART. The Court DENIES Plaintiff's request to remand the case to state court. The Court GRANTS Plaintiff's request for voluntary dismissal, and IT IS ORDERED that this action is DISMISSED, without prejudice to Plaintiff's right to pursue his claims in state court.

IT IS FURTHER ORDERED that all other pending motions are DENIED as moot.

IT IS SO ORDERED.

DATED this 17th day of December, 2021.

A handwritten signature in black ink, appearing to read "Michael H. Simon", written over a horizontal line.

Michael H. Simon
United States District Judge